IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL SECOND APPEAL No. 59 of 2005

DEEPAK GUPTA
V/S
ASHOK KUMAR

Mr. AK ACHRAYA, for the appellant / petitioner

Mr. BK VYAS, for the respondent

Date of Order : 2.3.2005

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the parties.

Perused the impugned Judgment & decree. It has been found that the defendant had committed default in payment of rent for the period of six months as on the date of filing the suit, and after provisional determination of rent under Sec.13(3), has not deposited the same as required under Sec.13 of the Act, as such, vide order dated 12.5.2002, defence of the appellant against eviction, has been struck off, and that order has been maintained in appeal.

Learned counsel for the appellant has not been able to show as to how that order is bad, thus in my view, the appeal does not involve any substantial question of law. The same is, therefore, dismissed

However, at the request of the learned counsel for the appellant, the appellant is given one year's time to vacate the suit premises on the condition that the defendant gives an undertaking before the learned trial court within one month from today that on or before the expiry of the above period, he will peacefully hand over the vacant possession of the suit premises to the plaintiff and that during this period, he will not, in any manner, transfer the possession of the suit premises to anybody. Likewise, the entire decretal amount, so also all arrears of rent, if any, shall be deposited by the appellant in the trial court within one month from today and shall further continue to deposit amount equal to the monthly rent by way of damages for use and

occupation by 15th of each succeeding month, till the actual delivery of possession. In case the appellant fails to comply with any of the above conditions, the respondent will become automatically entitled to execute the decree forthwith.

(N P GUPTA),J.

/Srawat/